

The Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and the Special Rapporteur on the situation of human rights defenders

REFERENCE:
UA VNM 4/2017

28 June 2017

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 28/11, 34/18, 25/18.

In this connection, we would like to bring to the attention of your Excellency's Government information received concerning the arbitrary detention of Ms. Nguyen Ngoc Nhu Quynh (also known as Mother Mushroom) and violent attack against Ms. Le My Hanh, in what appears to be a retaliation for their legitimate environmental human rights work related to the environmental pollution, caused by toxic waste discharge from the Formosa steel plant in Ha Tinh in April 2016.

Violent arrests and excessive use of force against individuals and environmental human rights defenders participating in a peaceful demonstration against the environmental pollution caused by a steel plant belonging to **Formosa Plastics** in April 2016 was the subject of previous communications sent by various Special Rapporteurs, dated 10 August 2016, case no. VNM 5/2016 and again dated 16 March 2017, case no. VNM 2/2017. We acknowledge receipt of the response by your Excellency's Government to the first communication dated 3 March 2017; however, we regret that no response has been received to the latter communication.

Ms. **Nguyen Ngoc Nhu Quynh** is an environmental human rights defender and coordinator of the Vietnamese Bloggers' Network, which promotes citizen journalism and freedom of press in the country as an independent civil society group. Since 2006, she has blogged under the pseudonym of Me Nam (Mother Mushroom). She has exposed corruption cases and human rights violations committed by the authorities.

The arrest on 10 October 2016 and subsequent detention of Ms. Quynh was the subject of a previous communication sent by various Special Rapporteurs, dated 24 February 2017, case no. VNM 1/2017. We regret that no response has been received from your Excellency's Government, especially in light of the new information below.

Ms. Quynh has previously suffered a number of retaliatory actions in connection with her human rights work. She was arrested and detained for ten days in Nha Trang city (September 2009); was subject of a travel ban (2010); was detained and questioned by the authorities about her movements (2012); was detained and questioned about her personal *Facebook* account (February 2013); was beaten by men and women allegedly associated with a Government-sponsored organization (July 2013); was subject of an international travel ban and had her passport confiscated (15 December 2013); was detained and threatened by local authorities (February 2014); was detained and had her personal belongings confiscated by the police (July 2014); was detained and had her driver's license confiscated (October 2014); was severely beaten allegedly by the security police, then detained for twelve hours (July 2015); was allegedly kidnapped on her way to the airport by some 20 security police and physically assaulted (October 2015); was grabbed, strangled and muffled by four security officers (May 2016); was detained and questioned by the police about her concerns over the massive death of fish caused by the Formosa environmental disaster (May 2016).

Ms. Quynh is the recipient of the 2014 Civil Rights Defender of the Year award from the Stockholm-based NGO Civil Rights Defenders, and she was recently awarded the 2017 International Women of Courage Award from the US Department of State.

Ms. Le My Hanh is a Hanoi-based environmental human rights defender and a journalist. She has reported on peaceful demonstrations by central coast residents who continue to seek remedies for the environmental consequences of the environmental disaster caused by Formosa steel plant.

According to the information received:

Concerning the violent attack of Ms. Le My Hanh

On 2 May 2017, Ms. Le My Hanh was reportedly attacked in Ho Chi Minh City by a group of five individuals, who forcefully entered into her friend's apartment and assaulted her and two other friends. The attackers sprayed their faces with pepper spray, while beating them up. The environmental human rights defender was knocked unconscious and left with injuries to her face. It is reported that one of the attackers later posted a video of the assault on his *Facebook* page along with a threatening message. The attack was reported to the Second District police in Ho Chi Minh City, even if the local police tried to persuade Ms Le My Hanh to drop the complaint against the attackers because her injuries "were not serious".

The attack took place a month after she had been brutally beaten, while conducting a live stream on Facebook of a peaceful protest concerning the environmental disaster caused by Formosa steel plant.

Concerning the arbitrary detention of Ms. Nguyen Ngoc Nhu Quynh

On 10 October 2016, Ms. Quynh was arrested and charged with violating article 88 (1) of the Penal Code for “conducting propaganda against the Socialist Republic of Viet Nam”. The charges appear to be related to Ms. Quynh’s activities on the Internet criticizing the Government over politically sensitive issues, in particular, campaigning, documenting and reporting on the environmental harm caused by Formosa steel plant.

Following the arrest, a number of State owned or controlled media outlets reported that police was investigating “400 Facebook articles” written by the environmental rights defender and that the evidence found in Ms. Quynh’s home included cardboard placards with messages such as “No to Formosa”, “Fish Need Clean Water” and “People Need Transparency”.

Since her arrest on 10 October 2016, Ms. Quynh has been held in pre-trial detention, without permitted visits from her family or her lawyers, in Nha Trang city, Khanh Hoa province. On 14 June 2017, the Vietnamese authorities reportedly formally charged Ms. Quynh with counts a, b and c of the article 88 of the Penal Code.

According to the Opinion No. 27/2017 concerning Nguyen Ngoc Nhu Quynh (Viet Nam) adopted by the Working Group on Arbitrary Detention on 25 April 2017, “the deprivation of liberty of Nguyen Ngoc Nhu Quynh, being in contravention of articles 9, 10, 11, 19 and 20 of the Universal Declaration of Human Rights and of articles 9, 14, 19, 21 and 22 of the Covenant, is arbitrary and falls within categories II and III” (See A/HRC/WGAD/2017/27).

At the time of this communication, Ms. Quynh’s trial has reportedly been scheduled for 29 June 2017. If found guilty, she faces up to 12 years of imprisonment.

We are seriously concerned about violent attacks and arbitrary detentions of environmental human rights defenders, which appear to be in direct response to their legitimate and peaceful human rights work and exercise of their right to freedom of expression. We are gravely concerned that despite the opinion No. 27/2017 of the Working Group on Arbitrary Detention, Ms. Quynh continues to be held in arbitrary detention, facing serious charges in relation to her human rights work. We reiterate our concerns at the legal basis for the detention of Ms. Quynh and the use of repressive legislation to criminalize expression, including access to information, on issues of great public interest concerning accountability and public health.

We are similarly concerned about the acts of harassment and threats against organizers of peaceful protests and their relatives in attempts to deter them from continuing the exercise of their right to peaceful assembly. We are also concerned by reports that these are not isolated incidents, but are part of a broader systemic human rights violations committed by agents linked or controlled by your Excellency's Government, who allegedly aim to suppress peaceful protests and free expression by persecuting human rights defenders for their efforts to help victims of the Formosa environmental disaster to seek remedial action.

Also of concern to us are the reports indicating that the coastal waters affected by the Formosa spill have not yet been tested to determine their current toxicity levels, and that attempts to establish independent investigations have been discouraged by your Excellency's Government.

While we do not wish to prejudge the accuracy of these allegations, they appear to be in contravention with articles 19 and 21 of the International Covenant on Civil and Political Rights (ICCPR), acceded to by Vietnam on 24 September 1982, which provide that everyone should have the right to freedom of expression and opinion and the right to freedom of peaceful assembly. In this connection, we reiterate the principle enunciated in Human Rights Council Resolution 12/16 that calls on States to refrain from imposing restrictions which are not consistent with article 19(3) of the ICCPR, including on peaceful demonstrations; reporting on human rights and discussion of government activities.

We would like to draw the attention of your Excellency's Government to the Human Rights Council resolution 24/5 which reminds States of their obligations to protect the rights of all individuals to freedom of peaceful assembly and association.

Additionally, we wish to bring to the attention of your Excellency's Government the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders, in particular articles 1, 2, 5, 6, and 12.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of human rights defenders in compliance with international instruments.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please provide information about any investigations undertaken regarding the aforementioned allegation of the violent attacks against Ms. Le My Hanh, including any protection measures that have been put in place to prevent the reoccurrence of future incidents.
3. Please provide information on any actions taken by the Government in follow up to the Opinion No. 27/2017 of the Working Group on Arbitrary Detention concerning Nguyen Ngoc Nhu Quynh, and explain how the continued detention and charges facing her are justified in that context.
4. Please provide information on why independent investigations of toxicity levels of the affected waters have been prevented by your Excellency's Government. If your Excellency's Government is currently conducting its own study, please provide information on its progress and measures taken to mitigate environmental and social effects.
5. Please provide information about measures taken to ensure that environmental human rights defenders can exercise their rights of freedom to peaceful assembly and of expression in a safe and conducive environment without fear of harassment or persecution.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

We intend to publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

John H. Knox

Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a
safe, clean, healthy and sustainable environment

David Kaye

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